

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF CITY OF TOPPENISH, WASHINGTON

CITY OF TOPPENISH appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket. MidValley Television, is located in the City of Toppenish and represents three other cities. The City of Wapato, Zillah and Granger. The four cities have supported Community Access Television through an interlocal agreement since 1993. The Cities have a Public and Government access channel 192 and 194 on Charter Cablevision. We strongly oppose the tentative conclusion in the FNPRM that the value of cable franchise obligations, such as those that allow our programming to be viewed on the cable system, can be deducted from franchise fees. We are smaller in population than other cities in Washington. We do not have a local newspaper or local news media coverage. Our Community Access Channel is the only local avenue for local school events, community events, non-profits and city government to share information with our citizens.

The impact to our budget of reduced franchise fees; the long-standing agreement from the cable operator that such obligations are not franchise fees; using fair market value to determine the amount to be considered a franchise fee will lead to arbitrary deductions; etc. Our budget is already small. Our program has been very frugal over the years and provided quality programming

with quality equipment and one paid employee. Reduction in franchise fee would end this program in our four cities.

We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or the PEG provider, rather than the public. As demonstrated above, MidValley Television provides valuable local programming that is not otherwise available on the cable system. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then requests comment on “other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated [by] the LFA and therefore should not be considered contributions to an LFA.”¹ PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public and cable subscribers. We do not understand the change in position, as it was the vision of the FCC to provide this voice for the people in exchange for use of the rights of way. “**Public-access television** is traditionally a form of non-commercial mass media where the general public can create content television programming which is narrowcast through cable TV specialty channels. Public-access television was created in the United States between 1969 and 1971 by the Federal Communications Commission (FCC), under Chairman Dean Burch, based on pioneering

¹ FNPRM ¶ 21.

work and advocacy of George Stoney, Red Burns (Alternate Media Center),^{[11](#)} and Sidney Dean (City Club of NY).”

There are so many important benefits provided by PEG programming. MidValley Television only broadcasts its programming on Charter Cable. There is not enough funding in the budget to purchase Internet streaming equipment. We cannot provide a link to our programming but would be more than willing to mail a DVD (s) of our local school activities, Council meetings, local community events, and more. We also have citizens and producers that would welcome opportunities to speak on how valuable community access is and has been in their lives. For example, Jack Brown, a senior citizen and long-time resident of the city of Wapato, only opportunity to stay involved with his community and city government is through his watching Community Access. He does not have means to attend meetings or activities due to his health at times and viewing his community through this channel brings him comfort and helps him stay informed for when he can participate in person. In this world is there anything more valuable than being connected with your roots, being part of your community? Community Access still provides that connection for all generations, race, gender, and views.

We invite you to visit our communities and our Community Access Center. Take a look, again, for yourselves how valuable this programming is to our communities. See localism in full swing. Can you put a price or fair market value on Community Access? Cable providers and Cities can be a wonderful team provider for a community and provide citizens a return for use of their Rights of Way. The FCC should embrace what it supported in the early 1970’s and see the power of local programming. Cable providers should start recognizing the value of this programming and embrace the uniqueness of the programming and the value they receive from subscribers who could cut the cord and find other means to watch television. Those who can receive cable in their

city, subscribe to Charter because of the local support and because they can view community programming. The absence of this programming from their line up and viewers could choose many other means to “watch” TV. Cable and Cities working together and giving back to their citizens is a true return to citizens for the use of the right of way. Please do not put a rule into place that would jeopardize the future of local programming in our cities.

Respectfully submitted,
Judy Devall

Judy Devall
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October 30, 2018